

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

09-CR-52-C-01

EARL SAMUEL STUART,

Defendant.

A continued hearing on the probation office's petition for judicial review of Earl Samuel Stuart's supervised release was held on April 9, 2010, before United States District Judge Barbara B. Crabb. The government appeared by Timothy M. O'Shea, Assistant United States Attorney. Defendant was present in person and by counsel, Supervisory Associate Federal Defender Michael W. Lieberman. Also present was United States Probation Officer Kristin Kiel.

At the initial hearing in this matter held on January 5, 2010, I found that defendant had begun a term of supervised release on January 21, 2009, when he was released from federal prison after serving a term of 262 months for aiding and abetting possession with intent to distribute cocaine, in violation of 21 U.S.C. §§ 841(1) and 846 (a Class B felony). He violated the conditions of supervision prohibiting him from committing another federal, state or local crime when he possessed and distributed marijuana. This conduct is classified as a Grade A violation. I revoked defendant's term of supervised release but stayed

imposition of a sentence until sentencing on the marijuana offense.

Defendant's criminal history category is VI. With a Grade A violation, defendant has an advisory guideline term of imprisonment of 33 to 41 months. The statutory maximum to which he can be sentenced upon revocation is 36 months, because his offense was a Class B felony.

After reviewing the non-binding policy statements of Chapter 7 of the Sentencing Guidelines, I have selected a sentence in the middle of the guideline range. The intent of this sentence is to protect the public and hold defendant accountable for his actions.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant Earl Samuel Stuart on April 6, 1990, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 36 months. No term of supervised release shall follow.

Defendant does not have the financial means or earning capacity to pay the cost of his incarceration.

Entered this 12th day of April, 2010.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge